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Security Council

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Provisional

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Monday, 29 June 2015, 3.05 p.m.
New York

President:	Mrs. Adnin	(Malaysia)
Members:	Angola	Mr. Lucas
	Chad	Mr. Gombo
	Chile	Mr. Olguín Cigarroa
	China	Mr. Xu Zhongsheng
	France	Mr. Stehelin
	Jordan	Mrs. Kawar
	Lithuania	Mrs. Jakubonė
	New Zealand	Mr. Van Bohemen
	Nigeria	Mr. Adamu
	Russian Federation	Mr. Iliichev
	Spain	Mr. Oyarzun Marchesi
	United Kingdom of Great Britain and Northern Ireland	Ms. Mulvein
	United States of America	Mr. Pressman
	Venezuela (Bolivarian Republic of)	Mr. Méndez Graterol

Agenda

Reports of the Secretary-General on the Sudan and South Sudan

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The meeting was called to order at 3.05 p.m.

Adoption of the agenda

The agenda was adopted.

Reports of the Secretary-General on the Sudan and South Sudan

The President: In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representative of the Sudan to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

I now give the floor to Ms. Bensouda.

Ms. Bensouda: We are meeting once again as I present my Office's twenty-first report on Darfur, Sudan, pursuant to resolution 1593 (2005).

Today's briefing also takes place over six years after the issuance of the first warrant of arrest against Mr. Omer Al-Bashir. To those who choose to forget the events that have brought us here, and in particular those who have chosen to deliberately distort facts by alleging that the International Criminal Court (ICC) imposed itself on the Sudan, I would like to briefly recall some crucial facts.

Lest we forget, on 29 October 2009, the African Union (AU) endorsed the report and recommendations of the African Union High-Level Panel on Darfur, led by the former President of South Africa, Mr Thabo Mbeki. This comprehensive 125-page report, entitled "Darfur – the quest for peace, justice and reconciliation", recommended a range of steps the Sudanese Government ought to take to advance these objectives. They included the creation of a hybrid court composed of Sudanese and non-Sudanese judges and other officials to investigate and prosecute serious crimes committed in Darfur in violation of international law, as well as broad reforms to the country's criminal justice system. In particular, the Mbeki Panel opined,

> "should Sudan make genuine efforts to address the crimes in Darfur, the judges of the ICC would be required to evaluate those steps to consider whether they meet the requirements of Article 17 [of the Rome Statute, which gives preference to national courts unless States in question cannot or will not prosecute]. The final determination of this issue, however, is for the judges of the ICC alone".

The role of the International Criminal Court in efforts to end the atrocities committed in Darfur and to hold those most responsible accountable, is crucial and has a well-known history. Indeed, it is a role equally well recognized by the African Unon at the genesis of the exercise of the Court's jurisdiction vis-à-vis Darfur, Sudan. Notably, the Mbeki Panel went on to say:

> "Whilst the ICC action might be a catalyst for acts of accountability in Sudan, Darfurians deserve attention not because of the threat of international action, but principally because they have a right to justice, in their own country, on account of what they have suffered".

The question we need to ask ourselves today is whether the people of Darfur, Sudan, who continue to endure the suffering widely recognized by the Mbeki Panel and the African Union, among others, will ever receive the justice they deserve? Will their plight finally be answered through independent and impartial justice, or will their cries continue to face silent inaction?

In my last briefing on Darfur (see S/PV.7337), I stated that given the Council's failure to act decisively on numerous acts of defiance of its resolution 1593 (2005) by the Government of the Sudan and given the limited resources at my disposal, I was left with no choice but to limit active investigations. My message was addressed to the Council to encourage the exercise of its powers to ensure justice for the long-suffering victims of atrocity crimes in the Sudan. It was a clarion call to the Council that it is long overdue to heed the cries of the victims of rape, sexual abuse, torture, mass displacement and other kinds of inhumane suffering that Darfurians continue to endure.

As always, detractors and their spin doctors have deliberately distorted the call for Security Council action as a victory for Mr. Al-Bashir and other suspects in the Darfur situation. Let me be clear. My Office's determination to bring independent and impartial justice to the people of the Sudan remains unshaken. The efforts of detractors and naysayers only serve to strengthen our resolve and spur us to double our efforts in that regard. Mr. Al-Bashir's rapid departure from South Africa proves that the warrants of arrest against

him are as valid as they were when issued. They remain in full force and effect, and my Office is committed to ensure that they are executed.

While Mr. Al-Bashir may have escaped the law in South Africa through an unanticipated and premature departure from the twenty-fourth African Union Summit, the swift judicial action of South African courts we have witnessed is a shining precedent that must be emulated in other States. More generally, the High Court's ruling on South Africa has also underlined a growing recognition by domestic courts of States' obligations to uphold their commitments under international law and, in this case, the Rome Statute.

As the Court's own presiding Judge of the Pre-Trial Chamber made clear on Saturday, 13 June, there existed no ambiguity or uncertainty with respect to the obligation of the Republic of South Africa to immediately arrest and surrender Mr. Omer Al-Bashir to the Court and that the competent authorities of the Republic of South Africa were already aware of that obligation. Mr. Al-Bashir's hasty retreats in Kenya, Nigeria and now South Africa are also largely due to the vigilance and tireless efforts of civil society. The courage and commitment of civil society are to be commended. More importantly, such selfless efforts must humble us and remind us of the spirit of 1998, when the hopes and aspirations of humanity combined in a rare historical moment to create the International Criminal Court with the promise "never again".

The International Justice Project, with the ICC at its nucleus, demands sustained and robust support if it is to succeed and propel us forward towards a more just and peaceful world. We must not allow that virtuous undertaking of humanity to be chipped away or ultimately sacrificed at the altar of political expediency. It is past time for the Council and States to join forces with the Court and civil society in devising concrete and effective strategies for the arrest of accused persons wanted by the Court and to give the ICC the full support it requires and to which it is entitled in order to implement the Rome Statute as intended.

My Office has encouraged States parties to find innovative ways to support those among them that are most likely to receive visits from wanted individuals to be proactive and to make practical plans for the safe and effective arrest of persons against whom warrants of arrest have been issued by the Court. I encourage States parties to plan ahead for the arrest in a targeted and efficient manner of each individual wanted by the Court. The longer such persons remain at large, the greater the risk that further atrocities will be committed, contributing to instability and insecurity.

The deteriorating security situation in Darfur continues to be a matter of great concern, not only for my Office, but for the broader international community and, undoubtedly, for the Council. Innocent civilians continue to bear the brunt of insecurity and instability, notably as a result of what appears to be an ongoing Government campaign to target them. The frequency and brutality of the targeting of civilians, particularly women, are especially troubling. The people alleged to be most responsible for those ongoing atrocities are the same people against whom warrants of arrest have already been issued. Needless to say, arresting them and bringing them to face justice is the only way to stop those crimes.

In that context, I must emphasize that my Office's investigations into the alleged crimes committed in Darfur are continuing, albeit not at the pace or intensity we would have liked. The fact remains that my Office has finite resources and a heavy caseload and is therefore struggling to commit to full, active investigations of the ongoing crimes in Darfur. That however, should not in any way be misconstrued or interpreted to mean that investigations have been closed or that we have abandoned the victims of mass atrocities in Darfur — in fact, far from it. A team of lawyers and investigators dedicated to the Darfur investigations in my Office continues to carry out its work, albeit with a limited capacity given resource constraints, the lack of access to the Sudan and inadequate support and follow-up from the Council. My Darfur team's activities have had to be limited to monitoring and documenting incidents as they occur and to conducting witness interviews where possible and necessary. I urge anyone with reliable information and potential evidence of ongoing crimes in Darfur to contact my Office and to proactively support the ongoing investigation.

On 26 June, the Pre-Trial Chamber of the ICC found that the Government of the Sudan is in non-compliance for its failure to arrest and surrender Abdel Raheem Muhammad Hussein to the ICC. That is in addition to the 9 March finding of the same Pre-Trial Chamber that the Sudan has failed to cooperate with the ICC by not arresting and surrendering Mr. Omar Al-Bashir. The Judges have communicated those findings to the Council for action. The latest judicial findings bring the number of such non-compliance communications

to the Council to 10. I urge the Council to give urgent attention to those communications.

Following an independent assessment of whether to open an investigation pursuant to a Security Council referral, if the decision by the Court is affirmative, then the Rome Statute legal framework foresees a clear role for the Council in the case of the non-compliance of States. It is imperative for the Council to recognize its crucial role vis-à-vis those States found to be non-compliant by the Court and to assume its responsibilities to advance the objectives of the Rome Statute. Therefore, I reiterate the call on the Council to ensure the Sudan's compliance with resolution 1593 (2005) and equally call on States parties to the Rome Statute to promote cooperation and effect the arrest of individuals wanted by the ICC in the Darfur situation.

Similarly, I urge ICC States parties to take the lead in assessing how best individuals for whom warrants have been issued by the Court can be arrested and surrendered to the ICC. That dialogue is past due and my Office encourages it to be given the urgency it deserves. As the Judges of the Court have put it, if there is no follow-up action on the part of the Security Council, any referral by the Council to the ICC under Chapter VII of the Charter of the United Nations would never achieve its ultimate goal; namely, to put an end to impunity. Accordingly, any such referral would become futile.

My Office welcomes the ongoing dialogue with States parties to the Rome Statute, through the caucus of States parties in the Council. The caucus is an important step towards building institutional memory on justice issues within the Council and ensuring that justice remains an integral part of the Council's discussions. I encourage the leadership of the Assembly of States Parties to the Rome Statute of the ICC and their offices to continue to consider how interaction between the caucus and the Assembly of States Parties may strengthen the justice community's interactions at the United Nations.

In conclusion, let me restate that there is more that we can and must do to achieve peace and justice in Darfur. I will continue to do my part in the exercise of my independent and impartial mandate. The support of partners, including civil society from the Sudan and elsewhere, States Parties in general and the United Nations remains crucial for my work. It must be stressed that the Council also has a vital role to play and must do its part.

The President: I thank Ms. Bensouda for her briefing.

I now give the floor to the members of the Council.

Mr. Olguín Cigarroa (Chile) (*spoke in Spanish*): We would like to thank the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, for her briefing. The climate of violence and impunity continues in Darfur. That is why we believe that the Council should adopt a more active stance with regard to follow-up of that situation in the context of the ICC.

Chile condemns the serious crimes described in the report of the Prosecutor of the ICC, which continue to be investigated. Those include aerial bombardments; attacks on civilians; sexual and gender-based violence; attacks on human rights activists, members of civil society and community leaders; and the kidnapping of and attacks against those providing humanitarian assistance and those involved in peacekeeping operations.

The referral of this information to the Court and the periodic reports to the Council are not sufficient. We urge the Council to strengthen its channels for dialogue with the Court and with the Prosecutor to enable them to respond to the requests made of them. We reiterate that the success of the investigations and proceedings of the ICC require the cooperation of States in their capacity as States parties to the Rome Statute and in accordance with Chapter VII of the Charter of the United Nations, which are the documents that underpin resolution 1593 (2005). Unfortunately, in the case of Darfur, the Prosecutor has repeatedly indicated to the Council that the Sudan has failed to cooperate. Chile reiterates its call on all States involved to cooperate with the Court to implement its rulings.

Equally worrisome is the fact that, as the Prosecutor has indicated, grave violations continue to be committed within the area of competence of the Court, in violation of the Rome Statute. It is essential that efforts be redoubled to achieve a system in which the rule of law and human rights are respected, while allowing for full compliance with the obligation to cooperate with the Court and the Prosecutor in order to put an end to all cases of impunity.

The Council has addressed the humanitarian situation in Darfur on many occasions. We call for the implementation of the relevant resolutions that followed resolution 1593 (2005), which referred the situation to

the Court and highlighted the need for a cessation of violence against civilians, in particular women and children. We reiterate our call for all of those resolutions be fully implemented.

We would like to conclude by reaffirming the value of the work of the Court, in particular the work of Prosecutor Bensouda.

Mr. Stehelin (France) (*spoke in French*): I too would like to thank the Prosecutor for presenting her twenty-first report.

On 31 March 2005, the Security Council adopted resolution 1593 (2005), which noted that the situation in the Sudan constituted a threat to international peace and security and referred the situation in Darfur to the International Criminal Court (ICC). In the resolution, the Council took note of the report of the International Commission of Inquiry on violations of international humanitarian law and human rights law in Darfur (S/2005/60), which had established the serious and systematic nature of the crimes in Darfur.

In its 2005 debates, the Council recalled that the referral had been presented as a way to prevent new atrocities by fighting against impunity and ensuring stability in the Sudan, which was a precondition for its development. It is useful, first of all, to return to the origins of those debates, and in some way to the spirit that must guide the interpretation and implementation of the resolution. Indeed, the Council remains responsible for the resolutions it adopts and compliance with them by the parties concerned.

Ten years later, it is clear that the same chain of cause and effect identified in 2005 is still feeding the cycle of violence. As highlighted in the report of the Prosecutor, the situation in Darfur is not improving and has even deteriorated, the intensity of the violence having reached one of the most alarming levels recorded in this conflict. France is deeply concerned about the intensification of fighting between the Sudanese Armed Forces and rebel groups in the Jebel Marra and Northern Darfur, in particular the aerial bombing campaign, which indiscriminately targets civilians.

Civilians continue to be the primary victims of a form of collective punishment, as evidenced by the approximately 121,000 people displaced in the Jebel Marra since January. Violations of human rights and international humanitarian law, in particular sexual violence, are continuing with complete impunity. In this context, the African Union-United Nations Hybrid Operation in Darfur (UNAMID) is prevented from to carrying out its mandate due to the attacks and restrictions on access to which it is subject.

At the same time, the arrest warrants issued by the International Criminal Court have yet to be executed. Five individuals accused of war crimes, crimes against humanity and, in one case, genocide continue to evade the Court's jurisdiction. Most of them continue to occupy the highest offices in the Sudanese State apparatus. How is it not clear that this impunity encourages further and renewed abuses?

While 2015 could, in humanitarian terms, be even worse than 2014, in which 430,000 people were newly displaced, the solutions are well known to the Council. They include, first, the conclusion and implementation of a political solution involving the Government and rebel groups; secondly, effective protection of civilians and UNAMID's exercise of its mandate; and thirdly, unimpeded humanitarian access to civilian populations and displaced persons.

Finally, identifying the persons responsible for crimes and an effective fight against impunity remain essential. We welcome the commitment of the Office of the Prosecutor during the period covered by the report. The Office obtained from the Pre-Trial Chamber two decisions of non-cooperation against the Sudan, in the Al-Bashir case on 9 March 2015, and in the Hussein case on 26 June 2015, bringing the total to 10. We recall the importance of States' duty to cooperate, without which the prosecution of the most serious crimes by the ICC will remain dead letter. As recalled by the Prosecutor, the primary responsibility lies with the Sudan as the State with the territorial jurisdiction to execute the arrest warrants and cooperate with the Court as required by resolution 1593 (2005). However, the Sudan not only refuses to cooperate at all with the Court, but also takes no action to allowing victims access to independent and impartial justice.

Under these circumstances, in order to ensure compliance with resolution 1593 (2005) and consistency with the conditions of its adoption in 2005, the arrest warrants be carried out. The Council must respond to cases of non-cooperation with the Court, and the Assembly of States Parties must remain mobilized. In this regard, France welcomes the efforts by its President, Mr. Sidiki Kaba. At the same time, contacts with the persons subject to arrest warrants by the Court must be limited to those deemed essential, in line with the Secretary-General's policy. France calls on the

United Nations as a whole to continue to implement that guidance.

Civilian populations were at the core of the Security Council's approach in 2005 when resolution 1593 (2005) was adopted. They must remain so today to bolster the Council in its struggle against impunity and its support for UNAMID. The Hybrid Mission, which brings together the United Nations and African Union, is making every effort to fulfil its mandate in conditions rendered particularly difficult by the obstacles it systematically encounters. Some of the interested parties would wish above all for the Mission to be purely and simply withdrawn, with no consideration for the actual situation on the ground. Any such approach would be counterproductive, since its only effect would be to make civilians even more vulnerable to the spiral of violence, which could further destabilize the Sudan and the region and usher in a dangerous cycle.

UNAMID must pursue clear objectives and develop long-term planning giving it a strategic view of its mission. Improving the situation of civilian populations must remain its lodestar; it must also continue to support the search for a political solution, the only kind that will work in the long term. The Council has just renewed the mandate of UNAMID, which all of us must now unequivocally support in the accomplishment of its mission. We owe that to the people of Darfur.

It is not without a sense of failure that we are obliged to make these observations some 10 years after the adoption of resolution 1593 (2005). Let that date, however, remind us of the continuing relevance of the Security Council's intentions and vision in 2005. Now more than ever, it behoves us to put into practical effect our decision and cooperation with the Court, to which that resolution has fundamentally and indissolubly linked us in the essential common objective of fighting impunity.

Mrs. Jakubonė (Lithuania): I thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, for her briefing to update the Council on the referral of the situation in Darfur. My delegation commends the Office of the Prosecutor for its sustained efforts to fulfil the mandate given to the Court by the Security Council a decade ago. We agree with the assessment contained in the Prosecutor's twenty-first report and regret the persistence of major impediments to bringing those responsible for crimes in Darfur to account.

The sad reality of today's meeting, like that of the previous ones, is that we need to reflect on yet another six months that have added to the suffering of the people of Darfur. As the latest reports clearly indicate, the ongoing security and humanitarian crisis in Darfur continues to be marked by widespread violence, impunity and displacement. Civilians continue to be targeted by both Government and armed militias, and to suffer from indiscriminate and disproportionate attacks, including on ethnic grounds. Raids on villages and camps of internally displaced persons camps dominate the daily life of innocent people, including women and children. The humanitarian situation is dire, while the delivery of humanitarian assistance continues to be hindered. Humanitarian aid workers and peacekeepers are subject to constant attacks throughout Darfur. Widespread sexual and gender-based violence has become a horrible feature of Darfur's conflict — and the list goes on, as detailed in the Prosecutor's report.

Earlier this year, in its resolution 2200 (2015), the Security Council expressed its deep concern regarding the increased violence and insecurity in Darfur in recent months. It emphasized the imperative for all armed actors to refrain from acts of violence against civilians. Similar concerns were also voiced at the recent briefing and consultations on Darfur. As the Prosecutor advises in her report, numerous trends in Darfur may amount to crimes under the Rome Statute, and while we concur that the Prosecutor's Office needs to think strategically and prioritize its workload, we urge it to continue to closely monitor various crimes allegedly committed in Darfur.

There is no doubt that the situation in Darfur is complex and multifaceted, but one thing is clear. Attacks against civilians there are largely possible because of the prevailing climate of impunity, and because violence breeds more violence. That cannot continue, and all perpetrators of violations of international humanitarian and human rights law must be brought to justice. The Government of the Sudan should do more to end attacks against civilians, ensure accountability and bring justice for the victims.

One message from the Prosecutor has also been clear and consistent at this and previous meetings. It is of the utmost importance that the Government of the Sudan and other parties meet their obligation under resolution 1593 (2005) to cooperate with the Court, including in the execution of those arrest warrants issued by the Court that remain outstanding. The

Court's latest decision against the Republic of the Sudan for non-compliance is a serious reminder that the Security Council needs to follow up on its referral. The Council has a special commitment with regard to the situation in Darfur, and needs to act vigorously to ensure that its own resolution is fully implemented.

The report of the Prosecutor, however, reminds us that a lack of cooperation persists on the part not only of the Government of the Sudan but also of other States. The lack of cooperation undermines international efforts to fight impunity, although there are some encouraging responses from national judiciaries. We therefore urge all States to cooperate fully with the Court in its investigations and prosecutions in Darfur. We also take note of the Prosecutor's suggestion that this is not a challenge only for those States parties to the Rome Statute that the suspects may visit.

In conclusion, I would like to reiterate Lithuania's full support for and cooperation with the Prosecutor of the International Criminal Court in carrying out her important mandate.

Mr. Pressman (United States of America): The public discussion of Darfur in recent weeks and months has centred on three terms: hibernation, exit strategy and non-cooperation. In each case, however, there is a deeper story to tell, and with respect to all three the discussion would benefit from a renewed focus on those men, women and children in Darfur who have suffered greatly from the fighting and violence. That is especially noteworthy now, since the violence and suffering are approaching levels that have not been seen since 2004.

In December 2014, the Prosecutor announced that she would hibernate investigative activities in Darfur. We welcome her clarification that this does not mean the end of her work on the situation in Darfur, but we were and are alarmed that the Sudan's non-cooperation has pushed her to such a point, and we must highlight, in response to those who see this as in some way a victory over the International Criminal Court, that, as the Prosecutor also emphasizes in her report, arrest warrants remain outstanding and prosecutors are continuing to work on the cases as much as possible. We think it is serious cause for concern and an affront to the victims of atrocities in Darfur that the individuals subject to outstanding arrest warrants related to the Darfur situation remain at large.

We have also heard considerable discussion of the African Union-United Nations Hybrid Operation in Darfur (UNAMID) exit strategy at a time when we need a greater focus on conditions inside Darfur, where the situation is deadly and deteriorating. The reported events of the past year have been alarming. Aerial bombardments, the number of which the Prosecutor described as having significantly increased, kill children and destroy hospitals and humanitarian facilities; sexual violence is wielded against women and girls with impunity, including, reportedly, in Thabit, where an investigation into alleged mass rapes remains incomplete, stymied by the Sudan's systematic denial of independent access to UNAMID personnel. Villages have been burned and communities' very means of survival are destroyed. Increased fighting among the armed groups and intercommunal violence have driven the displacement of over 573,000 people since the beginning of 2014.

The need for UNAMID, and the need for it to have full and unfettered access to conduct its work, are more acute than ever across all of Darfur, including in the light of the Prosecutor's decision to hibernate her new investigative work. It is important for UNAMID not just to protect civilians and facilitate humanitarian work, but also to continue to document the ongoing violations and abuses. That is reiterated in the latest communiqué of the African Union Peace and Security Council of 22 June.

Finally, with regard to the issue of non-cooperation, while members of the international community do not see eye to eye on many aspects of the Darfur crisis, we believe that there is abundant common ground among the members of the Council on the fact that States Members of the United Nations have obligations under the Charter to accept and carry out the Security Council's decisions. The Government of the Sudan continues to disregard the Council's decision in resolution 1593 (2005) that it must cooperate fully with and provide any necessary assistance to the Court and the Prosecutor. Surely we can agree that the Council has an interest in ensuring compliance with its own decisions. We continue to urge the international community to ensure compliance by the Sudan with its international obligations under resolution 1593 (2005).

The Council must also continue to focus on the need for accountability in Darfur, because it was us who sent peacekeepers into harm's way, and we owe them our support. Attacks on peacekeepers in Darfur have killed

citizens of Nigeria, Mali, Senegal, Tanzania and Rwanda, among others. Often lost in the debates about President Al-Bashir is the fact that one of the areas of focus of the International Criminal Court's investigations has been the 2007 attack on the brave soldiers who served in the African Union's peacekeeping mission there. In the absence of any national proceedings in Darfur to investigate and provide accountability for those crimes, we must be able to come together and express support for efforts to prosecute deliberate attacks on peacekeepers — attacks that very much continue to this day, as described in the Prosecutor's report. For example, on 26 April, the Government of the Sudan denied a flight request for the emergency medical evacuation of an Ethiopian peacekeeper, injured while performing his duties in Mukjar, Western Darfur. The evacuation flight clearance was denied and the peacekeeper died hours later.

Finally, in the light of recent events, I would like to reiterate that the United States opposes invitations to and facilitation of travel by those subject to outstanding International Criminal Court arrest warrants related to the situation in Darfur, and we are not alone in stressing the continued need for accountability. Voices from South Africa, Nigeria and Kenya have been clear and unequivocal. It was a South African organization that approached its own courts to seek enforcement of the ICC arrest warrant. It was Nigerian activists who discouraged a prolonged stay in their country, and it was a Kenyan court that ruled that the Government there must arrest Al-Bashir should he ever set foot there.

All that said, the discussion of hibernation, exit strategy and non-cooperation too often loses sight of the men, women and children who have been suffering from the ongoing conflict and violence in Darfur. It is their plight that makes the need for accountability so acute, and we must not turn our backs on them. The United States will continue to work with the Security Council and other partners in the international community to promote an end to the Sudan's many conflicts, and a just and sustainable peace.

Mr. Xu Zhongsheng (China) (*spoke in Chinese*): China listened carefully to Prosecutor Bensouda's briefing. The major problems in Darfur recently have been the slow progress of the political process, the refusal of some rebel groups to join the peace process and the continuing use of violence to undermine the region's peace and stability. We welcome and support the efforts of the Sudanese Government and the relevant rebel groups to push for implementation of the Doha Document for Peace in Darfur, and we hope that all the parties concerned will adhere to the principle of political settlement, join with and actively promote the Document's implementation and seek a comprehensive political settlement of the question of Darfur. We hope that countries that have influence with the rebels will play a constructive role in that regard. The international community should also help to create favourable external conditions for a political settlement of the question of Darfur.

China's position on the involvement of the International Criminal Court (ICC) in the issue remains unchanged. We also believe that the concerns of the African Union and the countries concerned about the ICC's involvement should be given full attention.

Mr. Oyarzun Marchesi (Spain) (*spoke in Spanish*): I would like to thank Prosecutor Fatou Bensouda for her briefing, and to convey Spain's congratulations to the International Criminal Court (ICC) on its work, particularly regarding the Sudan.

In reading the Prosecutor's report, I get a clear sense of the level of frustration there. We are marking the tenth anniversary of the adoption of resolution 1593 (2005), and in that context I find the failures that have occurred to be striking. On 31 March 2005, the Security Council addressed this situation by adopting that resolution, but today we find ourselves in a situation in which the message we must convey is extremely important. We must send a message to those responsible for violations of human rights and international humanitarian law that impunity cannot be allowed to continue.

The report we heard today is the Prosecutor's twenty-first, and it tells us that there have been nine communications of the Court concerning non-coopeation, none of which have been responded to, and six outstanding arrest warrant. This information is most unsatisfactory, and represents 10 years of ongoing defiance on the part of the principal accused and the authorities of the Sudan. The Prosecutor's report for the most recent six-month period describes very discouraging results. There have been some 500 reported incidents, leading to 1,200 violent deaths, more than half of them civilian; increases in the numbers of indiscriminate aerial bombardments; a rise in the number of diplaced persons and cases of sexual violence. Arbitrary detentions and attacks on human rights defenders and humanitarian personnel, as well as

the staff of the African Union-United Nations Hybrid Operation in Darfur, have continued.

I should note that the report mentions a climate of impunity. While that refers to a specific situation, it is unfortunate that we can say that the description can be extended to the whole of Darfur. This situation is unacceptable, particularly in the light of recent developments in international penal law, which has given us the International Criminal Court, the most sophisticated instrument in history for ending impunity. In the Sudan, the Court has carried out its work to the extent that its resources allow. It must have the support it needs to enable it to complete that work. In its 9 March decision on its finding of non-cooperation, the Court's Pre-Trial Chamber was very clear. If there is no follow-up from the Security Council, there can be no accountability for the crimes that have been committed. Our objective is to put an end to impunity, and without the necessary support, the ICC cannot fulfil that part of its mandate under Chapter VII of the United Nations Charter.

As Ms. Bensouda noted on Friday, 26 June, the Pre-Trial Chamber issued another ruling finding non-cooperation by the Sudan in the case of Abdel Raheem Muhammad Hussein, launched on 1 March 2012. As the Chamber noted, Hussein, who was the Minister of Defence at the time the warrant for his arrest was issued, continues to hold public office and positions of important in the country. In its ruling, the Chamber requested that the President of the Court refer the situation to the Security Council. That would be a new opportunity for the Council to respond to the situation.

With regard to the events of 13 and 14 June in South Africa last month, we echo the comments of the spokesperson of the European Union. We must never forget the vital importance of State cooperation with the International Criminal Court.

In conclusion, I reiterate my Government's gratitude to the Prosecutor and the Court. They deserve our full recognition for their tireless work in Darfur and numerous other areas in the world in fighting impunity and finding justice for victims.

Mr. Lucas (Angola): We welcome the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda. We thank Ms. Bensouda for her briefing on the current judicial activities of the Court and on the situation in Darfur, as contained in her twenty-first report submitted to the Security Council pursuant to resolution 1593 (2005).

We take note of the report's contents, describing persistent violations of human rights and the dire humanitarian situation in Darfur, with allegations of crimes that amount to war crimes and crimes against humanity, on which the international community must take a clear stance. We strongly urge the parties involved in the conflict to put an end to the hostilities by engaging in meaningful political dialogue conducive to negotiations for a just, global and lasting peace in Darfur and the Sudan as a whole.

Resolution 1593 (2005) emphasizes the need to promote healing and reconciliation, and encourages the creation of institutions involved in all sectors of Sudanese society in order to strengthen, with the support of the African Union and international community, efforts to restore long-lasting peace in Darfur; hence, the international community s stringent call to assist the Sudanese people in solving their differences through dialogue.

The ICC report expresses the position taken on the specific case of the failure of Ethiopia and South Africa to arrest the Sudanese President, which is primarily based on the African Union's decision to call on the African member States to retain their rights, taking into account the importance of preserving and safeguarding the dignity, sovereignty and integrity of the African continent. The request of the African Union to the Security Council to defer the proceedings initiated against President Omar Al-Bashir of Sudan, has been neither heard nor acted upon by the Security Council.

The refusal of the Security Council to act on the African Union's request forced the African Union to reserve its cooperation with the International Criminal Court with respect to immunities for the arrest and surrender of President Omar Al-Bashir of Sudan. In this connection, we appeal to the Security Council to consider the requests of the African Union for a more constructive relationship between the African Union and the ICC. Angola will uphold the position of the African Union on this issue, while advocating for dialogue and negotiations as the only way to solve political disputes in Darfur, the Sudan and elsewhere.

Finally, we call on all the Sudanese parties — in particular, those involved in the conflict in Darfur — to

make sacrifices and concessions and to negotiate, in good faith, a peace settlement establishing accountability, justice and lasting peace in Darfur.

Mr. Van Bohemen (New Zealand): I thank the Prosecutor for her report and briefing.

We are deeply concerned about the situation in Darfur. As the report clearly illustrates, the past six months have seen an increase in violence against civilians, including a significant increase in aerial bombardments and rape on a scale never previously seen in Darfur. Oftentimes, that violence is committed by the Sudanese armed forces and associated militia, and the most vulnerable — women, children and internally displaced persons — are targeted.

Today, we not only mark 10 years since the Council heard the findings of the Commission of Inquiry and its International Criminal Court (ICC) referral, but we also mark another sobering illustration of that crisis. Today, we have the highest number of internally displaced persons from Darfur that we have seen in the past decade — 2.55 million. Today's discussion brings the Council face to face with the fact that one of its key decisions — the Darfur referral to the Court — is being flouted not only by the indictees, but also by States that have Rome Statute commitments. There has also been criticism of the referral by some other African Members of the Organization. This outcome — whatever its causes — is very bad for the Council, for the Court and for peace and justice. The Council, the Court and the African Union, along with their members, need to reflect very deeply about the longer-term implications of the divide between the Court and key African States that were once among the Court's strongest and earliest supporters. That is also a crucial issue for the Assembly of States Parties, which should look, beyond Darfur, at the state of these relationships.

For the Council, we need to reflect on the fact that the Darfur referral has led to a chain of events, with some aspects predictable and some not, resulting in the Court's authority being reduced both within Africa and also more broadly. As a country that is a party to the Court's Statute and committed to upholding the rule of law, New Zealand finds that situation very troubling. We consider that the Council needs to reflect carefully before using its referral power. While referring a situation to the Court may satisfy an immediate objective, if there is no genuine commitment on the part of the Council to support the implementation of that referral, the longer-term consequences could be very negative. The Prosecutor just made a similar point.

The status quo presents challenges for the effectiveness and credibility of both the Council and the Court. The existence of these challenges does not diminish the gravity of the crimes or the need for accountability, nor does it justify inaction. We need to work in a careful and considered way to overcome those challenges, including in the context of referrals. That will not be an easy or a short process, but we believe that it needs to be done. In the case of the Darfur referral, the Sudan's non-compliance with the Council's referral to the ICC is, as we know, not an isolated incident. There is a range of Council interventions in Darfur, and, in fact across the Sudan, and Khartoum's non-compliance or, at best, sporadic acquiescence, is a systemic challenge to them all.

In relation to the African Union-United Nations Hybrid Operation in Darfur (UNAMID), that was highlighted in the peace operations review, which refers to UNAMID as a Mission that is a mere shadow of its original purpose because parties undermine its presence through restrictions on its ability to operate. While we hope that this morning's renewal of the UNAMID mandate will allow the establishment of a new and more cooperative relationship between UNAMID and the Government of the Sudan, the past 10 years have been a sad history of studied non-cooperation by the Government. The same story can be seen even more patently in relation to sanctions, which have since the outset been heavily frustrated by the Sudan.

The backdrop to all of those challenges is an extremely serious humanitarian crisis, including, as we have heard, record numbers of internally displaced persons and widespread human rights violations. After 10 years of the Council failing to make in-roads with the Government of the Sudan or de-escalating the crisis in Darfur, it is the relationship with Khartoum that we should focus on. The Council needs to think hard about how it can change the paradigm with Khartoum, and Khartoum needs equally to think deeply about the relationship it wants with the international community, starting with the Council.

Mrs. Kawar (Jordan) (*spoke in Arabic*): At the outset, I would like to thank Prosecutor Fatou Bensouda of the International Criminal Court for her briefing this afternoon. I would also like to thank the Prosecutor for presenting her twenty-first report to the Security Council pursuant to resolution 1593 (2005).

We take note of the briefing by the International Criminal Court's Prosecutor and reiterate the importance of the principles that underlie the establishment of the Court. Those principles are extremely important to the pursuit of international justice and to holding accountable those who are responsible for international crimes and war crimes. Moreover, the Court plays an essential role in putting an end to impunity, with a view to preventing conflict or its reoccurrence. The Court also promotes key principles in that regard, including peaceful coexistence, the maintenance of international peace and security, and the promotion of the rule of law.

Jordan is concerned about the deteriorating humanitarian situation in Darfur, as mentioned in the report, including violations of human rights law and international humanitarian law, and the persistent attacks on civilians and the staff of humanitarian organizations, as well as United Nations Blue Helmets. Jordan reiterates the importance of cooperation with the International Criminal Court, to ensure the implementation of the Court's mandate and the Council's resolutions.

As a matter of utmost importance, it must be underscored that the situation in Darfur cannot be resolved in the absence of a sustainable development agenda that will respond to the fundamental needs of the local communities and assist them in meeting their socioeconomic challenges, as well as a road map leading to the return of those that have been displaced.

To conclude, justice and development in Darfur are essential and must be achieved first in order to establish a lasting peace, which can be done only with the involvement of all stakeholders.

Mr. Iliichev (Russian Federation) (*spoke in Russian*): We have taken note of the twenty-first report of the Prosecutor of the International Criminal Court (ICC), on the investigation of the situation in Darfur. We thank Ms. Bensouda for her comments on the 2009 report of the African Union High-Level Panel on Darfur (S/2009/599, annex I).

The military, political and humanitarian situations in Darfur remain difficult. The root cause of the violence and a rise in the number of internally displaced persons is the refusal of the armed opposition to participate in the Doha peace process or inter-tribal talks. We welcome the Government of the Sudan's active efforts to reconcile warring tribes. The escalation of inter-tribal clashes, driven by the competition for resources, is due in large part to the economic difficulties facing Darfur and the Sudan as a whole. That is why improving the situation will depend to a great extent on the timely implementation of the pledges made in 2013 in Doha concerning the allocation of billions of aid dollars to address the needs of the people of Darfur, the writing-off of foreign debt and the lifting of sanctions levied by the United States in circumvention of the Council. The resulting humanitarian problem also requires the normalization of the military and political situation in the region.

We call for swift action on the part of the Darfur rebels to join in the peace process, based on the Security Council-approved Doha Document for Peace in Darfur. In that context, it is high time for the Security Council to consider levying targeted sanctions against the leaders of the so-called intractable Darfur rebels, who unfortunately enjoy support from the outside.

The ongoing violence in Darfur has led to the suffering of civilians and increased numbers of internally displaced persons, which is of course a cause for concern. We therefore call on the Court to objectively and impartially assess the situation. The ability of the ICC to impartially investigate the actions of all parties to the conflict is of key importance to strengthening the Court's credibility. We also call on the Court to act with a view to striking a balance between serving justice and achieving lasting peace and stability.

The talks are all of equal importance. The search for solutions requires a comprehensive and balanced approach. We take note of the Prosecutor's observations regarding States' cooperation with the International Criminal Court in the framework of the Darfur dossier. The situation again demonstrates the importance of States' support in ensuring the Court's successful functioning.

Regarding the topic raised by the Prosecutor — the Sudan's participation in the African Union (AU) Summit in Johannesburg — we recall that, in addition to the obligation to cooperate with the ICC, the Statute states that parties to the Statute are bound by obligations arising from international legal norms governing the immunity of high-level officials, particularly Heads of States, of States that, like the Sudan, are not party to the Rome Statute. In that regard, we are sympathetic to the concerns raised with increasing frequency about a number of aspects of the Court's activities regarding certain African States, as well as the African Union as a whole.

Regarding the appeals made through so-called follow-up actions on the part of the Council in the referral of cases to the International Criminal Court, our position has been expressed many times and is well known. The case of the alleged massive sexual violence in Thabit has been closed. As is well known, it began through rumours launched by Radio Dabanga against Khartoum that were consequently spread by certain human rights activists, based on interviews that were usually carried out by telephone.

We recommend that colleagues look into the results of the Government of the Sudan's independent and detailed investigation, which has convincingly refuted those unbridled speculations. The Thabit affair represents an information war. It was an attempt by certain players to scale up pressure on the Sudan. It is very unfortunate that some forces are attempting to involve the Council, the African Union-United Nations Hybrid Operation in Darfur and the ICC in such a risky business.

Mr. Gombo (Chad) (*spoke in French*): I too would like to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, for her briefing. The situation in Darfur remains of concern, despite regional and international efforts to end the war through dialogue and national reconciliation.

Fighting between Government forces and the many armed groups continues, particularly in northern Darfur and Jebel Marra, although its intensity and frequency have somewhat decreased. That is further compounded by sporadic, yet deadly, clashes between the various tribes in eastern, southern and northern Darfur. Civilians caught between multiple fire-fights find themselves in extremely difficult security and humanitarian situations. Civilian victims number in the hundreds, including over 121,000 persons who have been internally displaced since December's briefing (see S/PV.7337). We strongly condemn that situation and all forms of violence perpetrated against civilians, particularly women and children. Attacks targeting the peacekeepers of the African Union-United Nations Hybrid Operation in Darfur and humanitarian workers are inadmissible. The perpetrators of such attacks must be identified and brought to justice.

In the context of war, insecurity and instability, it would be difficult, even impossible, to create conditions conducive to genuine justice in order to prosecute the alleged perpetrators of the crimes committed in Darfur. That is why we reiterate the appeal made by the African Union to work concurrently on the dual tracks of peace and justice. That is the only way to give justice a chance to succeed on all fronts. It is also why it is necessary to support and promote the inter-Sudanese dialogue process taking place under the auspices of the African Union High-Level Panel on Darfur, towards a lasting political solution to the crisis in Darfur.

Furthermore, we welcome the liberation in early April of the civil society members who had been imprisoned. We launch a heartfelt appeal to all Sudanese stakeholders to prioritize dialogue and national reconciliation. Chad reiterates that there is no military solution to the crisis in Darfur. The international community must make every effort to ensure that the armed movements and the Government return to the negotiating table on the basis of national reconciliation and the integration of justice into the peace process in order to combat impunity.

Ms. Mulvein (United Kingdom): I would like to thank Prosecutor Bensouda for her report and for her briefing today.

The situation in Darfur remains a serious concern with an increase in violence and insecurity over the reporting period. The number of people affected by the conflict continues to grow with 2 million now displaced in the long term and more than twice that number in need of humanitarian assistance. This, combined with reported attacks on humanitarian workers and peacekeepers, reinforces the need for all sides to reach a political solution and allow immediate unfettered humanitarian access.

It also, as the Council has discussed today in the context of the mandate renewal of the African Union-United Nations Hybrid Operation in Darfur (UNAMID), emphasizes the need for a strong international response. The Prosecutor's report highlights many of the issues. The United Kingdom is especially troubled by the increase in the level of violent deaths by civilians and the significant increase in reported aerial bombardments. As the report also highlights, the legal immunity of the Government of the Sudan's rapid support forces is a particular concern.

The report also picks up on ongoing sexual and gender-based violence. It is particularly disappointing that despite ongoing calls to allow UNAMID unfettered access to investigate the reported mass rape at Thabit, this still has not happened. The United Kingdom continues to call on all parties to refrain from violence

against civilians and to end the abuses and violations of both human rights and international humanitarian law. We welcome the recommendations of the United Nations Special Rapporteur for Violence against Women and the United Nations independent expert for the human rights situation in the Sudan that those responsible for human rights violations and abuses should be brought to account.

Against this backdrop, we regret that the Prosecutor is unable to carry out the full investigation due to lack of cooperation by the Government of the Sudan and that the tenth anniversary of Darfur being referred to the Prosecutor has passed and no arrests have been made. This reflects the fact that the Government of the Sudan has persistently failed to meet its obligations under resolution 1593 (2005). In doing so, it obstructs the pursuit of justice for the victims of crimes carried out in Darfur. We renew our call on the Government of the Sudan to cooperate fully with the International Criminal Court (ICC).

The United Kingdom is also disappointed that President Al-Bashir continues to travel with impunity with specific regard to his travel to the African Union summit in June. As the ICC's decision makes clear and as noted in the report of the Prosecutor, there is no ambiguity or uncertainty with respect to the obligation of States parties to the Rome Statute to arrest and surrender him to the Court. We were also disappointed that Abdel Rahim Hussein and Ahmed Haroun accompanied President Al-Bashir on trips overseas during the reporting period, and we note the 26 June decision of the Pre-Trial Chamber finding non-compliance by the Republic of the Sudan through failure to arrest Abdel Rahim Hussein.

The United Kingdom strongly supports the ICC as a Court working to deliver justice to victims, many of them African, of appalling crimes by holding perpetrators to account and putting an end to impunity. African States played a central role in the creation of the Court. African support and expertise continue to be vital to enable the Court to deliver its mandate of delivering justice for victims and tackling impunity. We call on all ICC States parties to meet their obligations under the Rome Statute and on the Government of the Sudan to meet its obligations under resolution 1593 (2005). We call on the Council to take effective follow-up action in relation to non-cooperation with the Court. Having referred the situation in Darfur to the Court, we must support it in fulfilling that mandate.

Mr. Adamu (Nigeria): I thank Ms. Fatou Bensouda for underlining the salient dimensions of the judicial activities undertaken by her Office. We are encouraged by its continued monitoring and reporting on trends that could potentially constitute crimes under the Rome Statute. Such preventive initiatives in our view will serve as deterrents against impunity and send a clear message that violators will be held accountable for their actions.

Nigeria is concerned about the increased violence and insecurity in Darfur, which has contributed significantly to the increase in the number of internally displaced persons in that part of the country. It is disconcerting that since the Prosecutor's last report (see S/PV.7337) in December 2014, there have been 500 incidents of alleged crimes resulting in approximately 1,200 violent deaths. We believe that this is attributable to the escalation of the armed conflict. We expect that the deployment of troops by the Government of the Sudan to act as a buffer between the southern Rizeigat and Ma'alia tribes in Darfur will ease tensions between the two communities. Mediation efforts should however be intensified and must seek to address the root causes of the conflict for sustainable peace.

While preferring suggestions designed to achieve lasting peace in Darfur, Nigeria condemns the sexual crimes against women, attacks against the peacekeepers of the African Union-United Nations Hybrid Operation in Darfur and the alleged abductions of humanitarian aid workers. We call on armed actors to refrain from all acts of violence against civilians and to cease all forms of violations and abuses of human rights and violations of international humanitarian law. In the same vein, we believe that safe and unhindered access must be granted to humanitarian agencies and personnel to facilitate the timely delivery of assistance to those in need.

On recent judicial activities, we see merit in an engagement between the International Criminal Court (ICC) and the African Union. We believe that robust dialogue could bridge understanding gaps between their differing perspectives. In this connection, it is our view that the President of the Assembly of States parties to the ICC could play a key role in facilitating understanding between the ICC and the African Union.

In closing, we reiterate our call on the parties to the conflict in Darfur to resolve their differences in the most peaceful manner in order to preserve the lives of innocent civilians. Experience shows that there can be no military solution to the conflict in Darfur. A return

to normalcy and a resumption of economic activities will be in the interest of the people, for development can only thrive where peace prevails.

Mr. Méndez Graterol (Bolivarian Republic of Venezuela) (*spoke in Spanish*): We wish to thank the Prosecutor of the International Criminal Court, Ms. Fatou Bensouda, for the presentation of the twenty-first report on the investigation on the situation in the Sudan, in accordance with resolution 1593 (2005), and for the work carried out by that judicial body in the fight against impunity and the promotion of justice for the victims of the crimes established in article 5 of the Rome Statute.

The Bolivarian Republic of Venezuela, as a State party to the International Criminal Court since its establishment in 2002, defends the strengthening of its institutions and the effectiveness of its operations. We therefore encourage the universalization of the Court in order to strengthen the rule of law at the national and international levels. In this regard, cooperation is an essential aspect in achieving the Court's objectives. We call for the consolidation of the dialogue between the Court and the African Union.

Venezuela supports the efforts of the Prosecutor to ensure that justice and accountability are respected and that the authorities can promote the establishment of a comprehensive and effective justice system. For our country, the ongoing efforts of a number of actors to politicize the work of the International Criminal Court are of great concern. They have affected the principles that govern the Court, which include autonomy, independence, impartiality, transparency and objectivity. Failure to comply with these principles weakens the institutional framework of the Court when justice is applied selectively, to the detriment of the spirit and purpose of the Rome Statute.

The issuance of the warrant of arrest by the International Criminal Court against President Omar Al-Bashir violates customary international law, which guarantees jurisdictional immunity to Heads of State in the exercise of their functions. This situation should be addressed in accordance with the national laws of the Republic of the Sudan. In that regard, Venezuela shares the position of the African Union, as stated by the representatives of Angola, Chad and Nigeria at this meeting.

In addition, with regard to the issue under discussion, we cannot overestate the negative impact of the execution of this illegitimate measure on the Sudanese peace process. In that regard, the African Union, the Organization of Islamic Cooperation, the League of Arab States and the Non-Aligned Movement, among others, have expressed their profound concern with regard to the arrest warrant, which they believe seriously undermines ongoing efforts to facilitate a timely solution of the conflict in Darfur and to promote a lasting peace and reconciliation in the Sudan, and could give rise to greater destabilization and have long-term and comprehensive consequences for the country and the region.

Nevertheless, in an effort to achieve greater harmony among opposing positions, we urge the competent regional authorities to immediately arrest those individuals who do not enjoy jurisdictional immunity as Heads of State. We also encourage the Office of the Prosecutor to pursue its investigations into those responsible for alleged crimes against humanity, war crimes and genocide whose arrest warrants have been issued by the International Criminal Court in the case in question and referred by the Security Council through resolution 1593 (2005). That would promote dialogue in the search for negotiated political solutions to the conflict in favour of peace, development and justice in that country.

We note that the African Union fulfils a fundamental role as a facilitator of political peace processes in the continent, in particular in the Sudan. We believe that cooperation between the Security Council, the International Criminal Court and the regional and subregional organizations of Africa must be founded on mutual respect and strict adherence to international law.

My country is aware that the Sudanese political situation is complex and that significant challenges remain on the ground. Nevertheless, we reaffirm our full support for a negotiated solution to the situation in Darfur, through an inclusive and direct political dialogue among the parties to the conflict, without preconditions, that would lead to lasting stability in the country. In that regard, we believe that the development of an environment conducive to sincere, honest and genuine dialogue is essential. We therefore reiterate our call for an immediate end to hostilities. To that end, we believe that the implementation of the provisions of the Doha Document for Peace in Darfur, contained in the Constitution of the Sudan, must be accelerated because it provides a framework that could serve as a

basis for negotiations among the parties to the conflict, complemented by a national dialogue to be convened by the Government.

We call on the parties to immediately cease hostilities. In that regard, we support the mediation efforts of the international community — particularly the countries of the region and regional organizations, such as the African Union, whose role, through the African Union High-Level Implementation Panel on Sudan and South Sudan, led by President Thabo Mbeki, as well as the Joint Chief Mediator — as fundamental steps that will help end the onoing conflict in that brotherly African country.

Finally, Venezuela reaffirms that the achievement of peace and stability in Sudan require cooperation between all stakeholders, including the African Union and subregional organizations, bearing in mind the purposes and principles of the Charter of the United Nations.

The President: I shall now make a statement in my national capacity.

I thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, for presenting the twenty-first report to the Council, pursuant to paragraph 8 of resolution 1593 (2005), outlining the judicial and prosecutorial activities of the Court.

We are deeply concerned at the security situation in Darfur, as reflected by the escalation in fighting between the Sudanese Armed Forces and the armed groups, the intercommunal conflicts and incidents of banditry and criminality. The proliferation of small arms has further contributed to the destabilization of the region. The humanitarian situation in Darfur, according to the United Nations Office for the Coordination of Humanitarian Affairs, is also a matter of concern. The escalation in conflict has resulted in an increase of 130,000 new internally displaced persons, especially in the Jebel Marra area. We call on the parties to immediately cease all attacks on civilians and humanitarian and peacekeeping personnel. We wish to remind all parties to the conflict of their obligations under international human rights and humanitarian law. We also believe that the perpetrators of such crimes must be held accountable.

We are also concerned that the African Union-United Nations Hybrid Operation in Darfur (UNAMID) continues to face restrictions on movement, denials of access and attacks against its personnel. We call on the Government of the Sudan to expeditiously investigate and deal with the numerous reported status-of-forces violations. In light of those challenges, we commend UNAMID for its steadfastness and resoluteness in striving to achieve its strategic objectives. It is in recognition of UNAMID's important role in and contribution to the Darfur peace process that Malaysia supported the adoption of resolution 2228 (2015), renewing UNAMID's mandate for a further year.

We also commend the convening of the Joint Working Group to deliberate on UNAMID's exit strategy. We are supportive of basing UNAMID's phased and gradual exit against a set of benchmarks, as laid out in annex 1 of the Secretary-General's report of 15 April 2014 (S/2014/279).

We are convinced that there is no military solution to the conflict in Darfur. We strongly condemn any action aimed at the forced overthrow of the Government of the Sudan. In that regard, we urge the parties to the conflict to continue to be guided by the Doha Document for Peace in Darfur framework. We encourage the Government of the Sudan to relaunch direct negotiations with the parties to the conflict, and further encourage the parties to return to the negotiating table and to engage constructively. As regards the inter-communal and inter-tribal conflicts, we encourage the Government of the Sudan to look into and effectively address the root causes of the disputes.

We acknowledge and highly commend the efforts of the Government of Chad in successfully mediating the signing of a peace agreement between the Government of the Sudan with a breakaway faction of the Sudan Liberation Army/Minni Minawi, in a parallel initiative to the Doha Document and the efforts of the African Union High-Level Implementation Panel on Sudan and South Sudan. We believe that efforts such as those will contribute significantly to the peace process in Darfur.

Malaysia is of the view that the efforts of the Government of the Sudan to demonstrate compliance with the relevant Security Council resolutions and its commitment to holding those responsible for violations of international human rights and international humanitarian law accountable will contribute positively towards building trust and confidence.

I now resume my function as president of the Council.

I now give the floor to the representative of the Sudan.

Mr. Hassan (Sudan): Before begining my prepared statement, I would first like to draw the attention of the Prosecutor Fatou Bensouda to her statement on the departure of my President from South Africa. Her statement was nonsensical and preposterous. His Excellency only left South Africa after he had completed his pre-planned schedule, and not for the reason she mentioned. Once again, I would like to draw the attention of the Prosecutor to the fact that she is talking about the elected President of a State, which constitutes an attack on the authority of the Sudan under the guise of international legitimacy. We reject this attack. It underlines the fact that such allegations by the Office of the Prosecutor indicate that it has become an open enemy of the Sudan and the people of the Sudan. Those statements, which runn counter to all political and moral decorum, reveal the motives behind the actions of the Office of the Prosecutor. The people of Darfur on whose behalf the Prosecutor speaks are those who elected His Excellency President Omar Al-Bashir. The Secretary-General's report on Darfur (S/2015/378) clearly states that when elections were held in the five states of Darfur, no security incident was recorded. The ICC Prosecutor has spoken falsely on behalf of Darfurians.

I shall now return to my prepared statement. I would like to state for the record that our participation here today in no way indicates that we wish to add any substance to the ICC's actions or to deal with the Court at all directly or indirectly. That is because the Sudan, as the Council knows, is not a party to the Rome Statute and is therefore not at all concerned with the Court's proceedings. In addition to the fact that the Court has no competence in the Sudan, we have our own independent, impartial and objective judiciary, with a renowned historic heritage, that is able to dispense justice. We are delivering this statement to the Security Council under the umbrella of the United Nations. We must correct significant misleading and erroneous information that inaccurately reflects the situation in Darfur, as well as the statements and reports made by United Nations bodies, including the latest one just mentioned.

The reports presented before the Council, as well as the Prosecutor's prejudicial briefing, are part and parcel of the Court's blatant politicization. In its briefings, the Office of the Prosecutor has presented completely incorrect information from unknown sources. What is worse, the Prosecutor presents details against the Government of the Sudan by padding her briefings with many embellishmens concerning the humanitarian situation, so-called violations of human rights and other such designations that properly belong to the mandates of other United Nations bodies. In one instance, her briefing quoted negative aspects selectively culled from the Secretary-General's reports on Darfur. On other occasions, her briefings have cited negative paragraphs with unverifiable information, such as reports of the Panel of Experts established pursuant to resolution 1591 (2005), as well as information derived from the mass media and non-governmental organizations.

This also raises the question of whether it is possible for the Office of the Prosecutor to assume competencies that properly pertain to other bodies of the Organization. Its approach politicized the situation and fabricated justifications in order to refer the case of Darfur to the ICC. But that referral was based on erroneous premises in the first place. An International Commission of Inquiry on Darfur, established pursuant to resolution 1564 (2004), conducted investigations and presented reports that refuted the charge of genocide in Darfur or any acts mentioned by the Prosecutor. Nevertheless, the Security Council referred the case to the ICC based on that lopsided, self-contradictory report pursuant to resolution 1593 (2005). This in itself represents a blatant contradiction, because the report contains a paragraph that excludes States not party to the Rome Statute from accountability under such a resolution. The same report was cited in the context of Darfur. What kind of justice is based on exclusion and politicization? In the light of the characterization of the Darfur conflict as a threat to international peace and security, pursuant to Chapter VII of the Charter of the United Nations, that remains an inappropriate, invalid approach.

The Council was fully aware that the roots of conflict in Darfur were not purely political grievances; they concerned development and certain dimensions exacerbated by natural causes, such as drought and desertification, which affected most of the African coast. Those factors made it necessary for the State to assume its constitutional responsibilities to extend its authority, security and law. The Government of the Sudan has been willing and able to seek full justice, particularly with regard to any crimes that have taken place in Darfur, which is why the Doha Document for Peace in Darfur contains a lengthy chapter on justice, accountability, settlement and reconciliation. The Sudan is also signatory to a convention enshrining those principles, so I wonder why the Prosecutor talks

about such matters as if we had no measures related to them.

As we reported to the Council in November 2014 (see S/PV.7337), the Sudan appointed a Prosecutor General for Darfur Crimes. Since the Doha Document has been approved as an official document of the Council, I refer to paragraph 295, which stipulates that

> "immunities enjoyed by persons by virtue of their official status or functions shall not obstruct the speedy dispensation of justice nor shall they prevent the combating of impunity".

The Document paves the way for justice — real justice and not the false justice we are hearing about. The Document contains clear commitments to justice and reconciliation as the two basic elements for achieving peace in Darfur.

Any attempt to detract from the status of the Sudanese judiciary is only a political ploy to invent reasons or justifications to target the Sudan through the ICC. For example, the sentences issued by the Darfur Court have in some cases included capital punishment; indeed, the special Darfur Court, established by virtue of the Doha Document, has issued capital punishment sentences in selected cases. Therefore, in the light of the Document's clear references to immunities, nobody, including a Prosecutor, can impugn or attack the professionalism, independence and competence of the Sudanese judiciary and its ability to achieve justice in accordance with our national laws, international criminal law and humanitarian law. In this connection, I reiterate our previous statements to the effect that justice should be achieved through the Sudanese judiciary and that the ICC has no role or competence unless the national judiciary is unwilling or unable to achieve justice. Therefore, there is no need to apply any ICC mandate.

We would therefore like to talk about the unsound approach espoused by the Office of the Prosecutor in trying to bypass the role of the national African judiciary organs in dealing with African cases. This unsound approach has caused Africans to raise their voices to reject the ICC approach and the frequent decisions the ICC has taken against Africans, and to call for African cases to be kept within the remit of the African judiciary. I would like to refer to the resolutions adopted by Addis Ababa and Johannesburg.

On this occasion, it is noteworthy that the report of the Prosecutor has primarily criticized the States visited by the President of the Republic. We would like to state that the attempts of the Prosecutor's Office to criticize those States constitute brazen interference in their sovereignty and a blatant challenge to the will of major regional organizations, which reject the proceedings of the ICC on Darfur. Statements have been issued by the African Union, at the level of Heads of State or Government, and at the ministerial level that reject the proceedings of the ICC on Darfur. On more than one occasion, such statements — including the resolutions adopted by the League of Arab States and the Non-Aligned Movement — have called for that dossier to be closed once and for all, as it is based on exclusively political considerations. Those organizations represent two-thirds of the international community. Other credible organizations whose decisions carry weight understand that the ICC has become a device to target African leaders and not others.

We would like to state here before the Council that all States Members of the Organization, all peace-loving States, be they States parties to the Rome Statute or not, should continue to welcome and receive His Excellency the President of the Republic of the Sudan. It is enough for him that history will record that he managed to put an end to one of the longest conflicts in Africa — that with South Sudan — by signing the Comprehensive Peace Agreement, which guaranteed self-determination to the State of South Sudan. History will also show that the Sudan was the first to recognize that a leader who makes such sacrifices for peace deserves to be received, welcomed and venerated, and not attacked on all sides. All international forums should receive him, as is his due, and welcome him. Any blame or criticism leveled by the Office of the Prosecutor against the States receiving the President is biaised and null and void. The confusion fostered by the Office of the Prosecutor since December 2014 proves that anything built on invalid premises will remain invalid.

The ambiguous connection between the ICC and the Security Council remains an unresolved question. Efforts to establish a relationship between a judicial entity and a political entity are beset by misgivings, obstacles and legal challenges with regard to the independence of the judiciary and the importance of its distancing itself from the influence of political authorities. That is exacerbated by the absence of a

framework governing the relationship between the two organs and the referrals from the Council to the Court.

With regard to the statements made by the representatives of France, the United Kingdom and the United States to the efect that the situation in Darfur has deteriorated since 2014, I wonder, is the Darfur they are talking about the Darfur we know, or another Darfur, outside the Sudan? Eighty per cent of the Doha Document for Peace in Darfur has been implemented, as mentioned by Mr. Al-Tijani Al-Sisi, who is a citizen of Darfur. Could this be another of the ploys that continue to arise in the Council to bring pressure to bear on the citizens of Darfur? This should not happen.

As for the United States, which calls on us to abide by the decisions of the ICC, I remind the representative of that country of the statement made by Condoleezza Rice, Secretary of State and former representative of the United States in the Council, on page 188 of her book, in which she states that President Bush objected strongly to the ICC for a number of reasons, including the fact that the Prosecutor was unable to hold any Government responsible. For the United States, it was a matter of sovereignty and the Court's authority was being exaggerated. as if it were a national Government. These are the words of one of the highest officials of the United States, and now they are calling on us to abide by the decisions of the ICC.

Sovereignty is sovereignty. We too are a sovereign State, and we are not party to the Rome Statute and will not be a party to it. Therefore, we do not abide by its proceedings or rulings.

With respect to the absence of frameworks governing the relationship between the two organs in terms of referrals from the Council to the Court and the contradiction between the obligations emanating from international treaties and instruments, regional and international conventions and the Rome Statute, I recall the provisions of the Vienna Convention on the Law of Treaties with regard to the immunities of Heads of State or Government and that a State not party to a convention is not concerned with it. The Sudan, as I stated, is not a party to the Rome Statute and consequently need not abide by its rulings.

I further recall the concerns and reservations that have been raised concerning the competencies of the Prosecutor since 1998. Entire books have been published on the limitless authority of the Prosecutor. That is what we are suffering from now. The stance taken by States since that time has been that the relationship between the Court and the Council, given the competencies conferred by the Rome Statute on the Prosecutor, would lead the Court into politicization and confusion, since it applies its competencies only to African countries. This has led to a loss of confidence in its integrity, as embodied in the resolutions of major regional organizations, foremost among which is the African Union.

In conclusion, I appeal to the Council to not consider the false information garnered from unknown sources that has been presented by the Prosecutor. Council members should instead consider the important fact, noted by a number of States, that the current priorities in Darfur are reconstruction, recovery and development. Many people have returned to their lands and are seeking to go about their normal daily activities. They are not waiting for the reports of the Prosecutor or anyone else, but are trying to achieve resolution and reconciliation. They are looking to the Security Council, which is not playing its role, to put pressure on the rebel groups that reject the Doha Document for Peace in Darfur. I have a question for the Prosecutor. Where are those rebel movements in her report? She makes no mention of the matter. Why?

The President: There are no more names inscribed on the list of speakers.

The meeting rose at 4.50 p.m.